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EXAMINER

FERKO, KATHRYN P

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,522

Applicant(s)

VAN VLEET, DANIEL W.

Examiner

Kathryn Ferko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This is a response to the amendment filed September 23, 2002. Claims 1-33 are pending.

1. The declaration filed on September 18, 2002 under 37 CFR 1.131 has been considered but is ineffective to overcome the Pedersen et al. reference (US Patent No. 6,227,843).

The declaration is defective in that there is an obvious contradiction between that presented as the second prototype in the description as stated in section 13 on pages 4 and 5, and that shown in the photograph of Exhibit B. Section 13 recites, "The gas manifold extended around the inner surface of the fire pan and a plurality of ports that directed vaporized fuel radially inwardly into the particulate material." However, that seems impossible given the photograph, Exhibit B. Exhibit B shows a "flat pan-type" burner rather than a ring. Therefore, particulate material can only be located outward and around the burner and fuel would not be directed radially inward. This obvious contradiction renders the declaration defective, and thus, it is not effective in removing the Pedersen et al. reference.

Further it is noted, that the declaration does not recite the action or lack thereof that was taken in regard to Exhibit B, which was stored away for roughly two years prior to application filing. Namely, applicant has not positively commented on whether the prototype was discussed in a public

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forum, on sale, or shown (whether demonstrated or shown in photographs) to others in the public during this time period, which would render this as a 35 U.S.C. 102 (b) bar. Further, there has been no comment as to the time gap/delay from reduction to practice until application filing.

Additionally, the declaration is insufficient in covering all claimed subject matter, such as the gas manifold shape of claim 8, the gas manifold ports in spaced apart relation of claims 10 and 22, the fire pan configuration of claim 11, a spacer having a hollow interior of claims 17, 19, and 23, a gas manifold that directs fuel laterally toward an axis that is perpendicular to a plane containing the rim of the fire pan of claim 9, a reservoir to provide fuel of claims 24, and a fire pan with an aperture as recited in claim 32.

Specification

There appears to be a typographical error with regards to the specification amendment. The amended paragraph, as requested in the first office action, was for page 15, beginning on line 20. However, the amendment requests the paragraph on page 5, at line 15 to be replaced, where it should be the paragraph on page 15, at line 20.

Claim Rejections - 35 USC § 112

2. Claim 23 recites the limitation "the central pan axis" and "the central base axis" in lines 10 and 11. There is insufficient antecedent basis for these

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limitations in the claim. Appropriate action is required for this and any other lack of antecedent basis in the claims.

Claim Objections

3. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It appears that claim 7 has not been cancelled or amended. However, it appears that the subject matter of claim 7 was incorporated into amended claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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5. Claims 15-16, 18, 20-22, 24-29 and 32-33 are rejected under 35

U.S.C. 102(a or e) as being anticipated by Pedersen et al.

Pedersen et al. disclose a portable camping stove adapted to be placed on a support surface and connected to a source of fuel having a base constructed as a shell with a lower rim so as to have a base interior with a selected size and geometric configuration; a shell fire pan with an upper rim so as to have a pan interior having a selected geometric configuration and size; a base and fire pan that are secured to one another so that the base interior and the pan interior are oppositely opening; a gas manifold (26) disposed in the pan interior and having at least one gas outlet operative to introduce vaporized fuel into the pan interior; a connector associated with the gas manifold and adapted to connect to a source of fuel, as seen in figures 3 and 4; a fire pan with a central axis and a base with a central axis that are secured together such that the central axis of each is co-linear; a lid (16) sized and adapted to enclose the pan interior with a portion of the lid being supported by a portion of the main body, as seen in figure 1; an upper rim that extend continuously around the fire pan and includes an inwardly projecting shoulder (18) portion disposed on the upper rim where the shoulder portion is operative to support the lid in the mounted state; and a plurality of ports (30) formed in spaced apart relation to one another around a gas manifold thereby to define a plurality of gas outlets

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-14, 17, 19, 23, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen et al. in view of Gonzalez.

Pedersen et al. disclose: a campfire apparatus (10) adapted to be placed in an assembled state on a support surface and connected to a source of fuel (42) having a base (12) adapted to rest on the support surface when in the assembled state; a fire pan (14) adapted to be supported by the base when in the assembled state; a fire pan having a main body portion having an inner surface, an upper rim and a pan interior, as seen in figures 1 and 2; at least one gas outlet operative to introduce vaporized fuel in to the pan interior when connected to the source of fuel and in the assembled state, as recited in column 3, lines 34-47; a quality of low-density, non-flammable particulate material (48) adapted to be disposed in the fire pan at a depth sufficient to cover a gas manifold when in the assembled state; a connector associated with the gas manifold and adapted to connect to a source of fuel, as seen in figures 3 and 4; a particulate material from the group clay, shale, slate, and slag particulates, zeolites, alumina hydrates, borates, perlite,

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vermiculite, beach sand, volcanic sand and sandblasting sand where the particulate material is specifically vermiculite, as stated in column 3, lines 48-51; a lid (16) sized and adapted to enclose the pan interior with a portion of the lid being supported by a portion of the main body, as seen in figure 1; an upper rim that extend continuously around the fire pan and includes an inwardly projecting shoulder (18) portion disposed on the upper rim where the shoulder portion is operative to support the lid in the mounted state; a gas manifold (26) that has a selected size and shape selected from a group of toroidal, serpentine, linear and linearly angled shapes, as seen in figure 3; a fire pan configured as a geometric shell selected from a group consisting of a portion of a spherical shell, a truncated pyramidal shell, a rectangular parallelepiped shape, a polyhedral shell, a conical shell, a cylindrical shell and a pyramidal shell; a base constructed as a shell with a lower rim so as to have a base interior with a selected size and geometric configuration; a shell fire pan with an upper rim so as to have a pan interior having a selected geometric configuration and size; a base and fire pan that are secured to one another so that the base interior and the pan interior are oppositely opening; a fire pan with a central axis and a base with a central axis that are secured together such that the central axis of each is co-linear; and a plurality of ports (30) formed in spaced apart relation to one another around a gas manifold thereby to define a plurality of gas outlets.

Pedersen discloses the invention with the exception of a spacer adapted to be interposed between the fire pan and the base when in the assembled state so that the base supports the spacer and the spacer supports the fire pan; a gas manifold outlet that directs vaporized fuel laterally toward an axis that is perpendicular to a plane containing a rim of the fire pan a fire pan and base that are substantially the same shape and size; and a spacer having a hollow interior and interposed between the base and fire pan where at least one bolt interconnecting the fire pan and the base where the bolt passes through the interior of the spacer.

On the other hand, Gonzalez teaches a spacer adapted to be interposed between the fire pan and the base when in the assembled state so that the base supports the spacer and the spacer supports the fire pan, as seen in figure 3; and a gas manifold outlet that directs vaporized fuel laterally toward an axis that is perpendicular to a plane containing a rim of the fire pan, as described in column 3, lines 65-68 and column 4, lines 1-9. Therefore, it would be obvious to one with ordinary skill in the art to provide the apparatus of Pedersen et al. with a spacer having a hollow interior and interposed between the base and fire pan, as taught by Gonzalez, for the purpose of increased ventilation and efficient combustion. Furthermore, the use of bolts that pass through the interior of the spacer would also be an obvious way to interconnect the fire pan and the base. Additionally, it would be obvious to one with ordinary skill in the art at the time the invention was made to substitute the perpendicular

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outlet direction for the gas manifold, as taught by Gonzalez, in the system of Pedersen et al. for the purpose of increasing safety by having the inward direction of gas flow to deter unintended flare ups.

Moreover, it is within the scope of the invention of modify the invention of Pedersen et al. to have the fire pan and base be substantially the same shape and have a configuration in which in the tipped-over position the plane of the upper rim is oriented at no less than ninety degrees to the support surface.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn Ferko whose telephone number is

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(703) 306-3454. The examiner can normally be reached on M-F (7:30-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A Bennett can be reached on (703) 308-0101. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

KF
November 13, 2002



Henry Bennett
Supervisory Patent Examiner
Group 3700